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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/766,175	01/18/2001	Mark Buonanno	CSCO-38240	9529

7590

07/28/2004

WAGNER, MURABITO & HAO LLP  
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San Jose, CA 95113

EXAMINER
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BORISSOV, IGOR N

ART UNIT	PAPER NUMBER
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3629

DATE MAILED: 07/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/766,175

Applicant(s)

BUONANNO ET AL.

Examiner

Igor Borissov

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-6,10-19 and 22-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6,10-19 and 22-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### *Remarks*

Applicant's amendment of 3/30/2004 is acknowledged and entered. Claims 7-9, 20-21 and 26 have been canceled. Claims 1, 10, 16 and 22 have been amended. Claims 1-6, 10-19 and 22-25 are currently pending.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 10-19 and 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cerami et al. (US 2002/0087680) (hereinafter Cerami) in view of Mikurak (US 6,606,744 B1).

Claim 1. Cerami teaches a system and method for proactive service request management and measurement, comprising:

providing xDSL service for a customer via a network [0064]; monitoring the performance of the network (software and hardware) to detect any faults [0068]; [0069]; proactively notifying a customer service center if a fault occurs, which enables the customer service representative to report known fault problems to the customer [0049]; notifying all customers affected by the fault personally [0091].

Cerami does not specifically teach that said notifying all customers is conducted *proactively*.

Mikurak teaches a system and method for collaborative installation management in a network-based supply chain environment, wherein customers are provided with ability to track their orders, and proactive service notification is conducted by notifying

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registered customers about possible problems and suggested solution (C. 163, L. 26-41; C. 139, L. 36-63).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Cerami to include that said notifying all customers is conducted *proactively*, as disclosed in Mikurak, because it would improve customer service.

Claim 2. Automatically and proactively fixing the problem and informing the customer of the problem (Cerami; [0091]).

Claim 3. Researching the problem, proactively informing the customer of the problem and proposing a solution to the customer (Mikurak; C. 163, L. 26-41).

Claim 4. Cerami in view of Mikurak teach all the limitations of claim 4, except specifically teaching *establishing a collaboration session between representatives of the customer and the service provider to resolve the problem*.

Official notice is taken that it is old and well known to provide a specific written authority to execute and sign one or more legal instruments for another person (power of attorney).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Cerami in view of Mikurak to include *establishing a collaboration session between representatives of the customer and the service provider to resolve the problem*, because it would simplify this process for both sides.

Claim 5. Conducting services on-line (Cerami; [0024]; [0029]).

Claim 6. Providing services to a customer in B2B environment (Mikurak; C. 224, L. 43-44; C. 225, L. 38-39).

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Claim 10. Cerami teaches a system and method for proactive service request management and measurement, comprising:

means for providing xDSL service for a customer via a network [0064]; means for monitoring the performance of the network (software and hardware) to detect any faults [0068]; [0069]; means for proactively notifying a customer service center if a fault occurs, which enables the customer service representative to report known fault problems to the customer [0049]; means for notifying all customers affected by the fault personally [0091].

Cerami does not specifically teach that said means for notifying all customers is means for proactively notifying all customers.

Mikurak teaches a system and method for collaborative installation management in a network-based supply chain environment, wherein customers are provided with ability to track their orders, and means for proactive service notification are provided for notifying registered customers about possible problems and suggested solution (C. 163, L. 26-41; C. 139, L. 36-63).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Cerami to include that said means for notifying all customers is means for *proactively* notifying all customers, as disclosed in Mikurak, because it would improve customer service.

Claim 11. Means for automatically and proactively fixing the problem and informing the customer of the problem (Cerami; [0091]).

Claim 12. Means for researching the problem, proactively informing the customer of the problem and proposing a solution to the customer (Mikurak; C. 163, L. 26-41).

Claim 13. Cerami in view of Mikurak teach all the limitations of claim 13, except specifically teaching means for *establishing a collaboration session between representatives of the customer and the service provider to resolve the problem*.

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Official notice is taken that it is old and well known to provide a specific written authority to execute and sign one or more legal instruments for another person (power of attorney).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Cerami in view of Mikurak to include means for *establishing a collaboration session between representatives of the customer and the service provider to resolve the problem*, because it would simplify this process for both sides.

Claim 14. Conducting services on-line (Cerami; [0024]; [0029]).

Claim 15. Providing services to a customer in B2B environment (Mikurak; C. 224, L. 43-44; C. 225, L. 38-39).

Claim 16. Cerami teaches a system and method for proactive service request management and measurement, comprising:

A computer-readable medium having stored thereon instructions causing said system to implement: providing xDSL service for a customer via a network [0064]; monitoring the performance of the network (software and hardware) to detect any faults [0068]; [0069]; proactively notifying a customer service center if a fault occurs, which enables the customer service representative to report known fault problems to the customer [0049]; notifying all customers affected by the fault personally [0091].

Cerami does not specifically teach that said notifying all customers is conducted *proactively*.

Mikurak teaches a system and method for collaborative installation management in a network-based supply chain environment, wherein customers are provided with ability to track their orders, and proactive service notification is conducted by notifying registered customers about possible problems and suggested solution (C. 163, L. 26-41; C. 139, L. 36-63).

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Cerami to include that said notifying all customers is conducted *proactively*, as disclosed in Mikurak, because it would improve customer service.

Claim 17. Automatically and proactively fixing the problem and informing the customer of the problem (Cerami; [0091]).

Claim 18. Researching the problem, proactively informing the customer of the problem and proposing a solution to the customer (Mikurak; C. 163, L. 26-41).

Claim 19. Cerami in view of Mikurak teach all the limitations of claim 4, except specifically teaching *establishing a collaboration session between representatives of the customer and the service provider to resolve the problem*.

Official notice is taken that it is old and well known to provide a specific written authority to execute and sign one or more legal instruments for another person (power of attorney).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Cerami in view of Mikurak to include *establishing a collaboration session between representatives of the customer and the service provider to resolve the problem*, because it would simplify this process for both sides.

Claim 22. Cerami teaches a system and method for proactive service request management and measurement, comprising:

means for providing xDSL service for a customer via a network [0064]; means for monitoring the performance of the network (software and hardware) to detect any faults [0068]; [0069]; communication means for proactively notifying a customer service center if a fault occurs, which enables the customer service representative to report known

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fault problems to the customer [0049]; means for notifying all customers affected by the fault personally [0091].

Cerami does not specifically teach that said means for notifying all customers is means for proactively notifying all customers.

Mikurak teaches a system and method for collaborative installation management in a network-based supply chain environment, wherein customers are provided with ability to track their orders, and means for proactive service notification are provided for notifying registered customers about possible problems and suggested solution (C. 163, L. 26-41; C. 139, L. 36-63).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Cerami to include that said means for notifying all customers is means for *proactively* notifying all customers, as disclosed in Mikurak, because it would improve customer service.

Claim 23. Same reasoning as for claim 22. Information as to *wherein the human call center agent automatically fixes the problem and informs the customer of the problem and the solution* is non-functional language and given no patentable weight. Claims Directed to an Apparatus must be distinguished from the prior art in terms of structure rather than function, *In re Danly* 263 F.2d 844, 847, 120 USPQ 582, 531 (CCPA 1959).

A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. *Ex parte Masham*, 2 USPQ2d 1657 (bd Pat. App. & Inter. 1987). Thus the structural limitations of claim 23 are disclosed in Cerami as described herein. Also as described the limitations of the claim do not distinguish the claimed apparatus from the prior art.

Claim 24. Same reasoning as for claim 22. Information as to *wherein the human call center agent researches the problem, explains the problem to the customer, and*



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*proposes a solution* is non-functional language and given no patentable weight. Claims Directed to an Apparatus must be distinguished from the prior art in terms of structure rather than function, *In re Danly* 263 F.2d 844, 847, 120 USPQ 582, 531 (CCPA 1959).

A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. *Ex parte Masham*, 2 USPQ2d 1657 (bd Pat. App. & Inter. 1987). Thus the structural limitations of claim 24 are disclosed in Cerami as described herein. Also as described the limitations of the claim do not distinguish the claimed apparatus from the prior art.

Claim 25. Cerami in view of Mikurak teaches all the limitations of claim 25, except specifically teaching *collaboration system for establishing a collaboration session between representatives of the customer and the service provider to resolve the problem*.

Official notice is taken that it is old and well known to provide a specific written authority to execute and sign one or more legal instruments for another person (power of attorney).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Cerami in view of Mikurak to include a *system for establishing a collaboration session between representatives of the customer and the service provider to resolve the problem*, because it would simplify this process for both sides.

#### ***Examiner's Note***

Examiner has cited particular columns and line numbers or figures in the references as applied to the claims for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully

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consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

***Response to Arguments***

Applicant's arguments with respect to claims 1-6, 10-19 and 22-25 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure (see form PTO-892).

The following U.S. patent is cited to further show the best domestically patented prior art found by the examiner:

US 5,983,198 to Mowery et al, discloses a system for proactively notifying customers about possible problem with their orders.

Any inquiry concerning this communication should be directed to Igor Borissov at telephone number (703) 305-4649.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist whose telephone number is (703) 308-1113.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, John Weiss, can be reached at (703) 308- 2702.

Any response to this action should be mailed to:

***Commissioner of Patents and Trademarks***

***Washington D.C. 20231***

or faxed to:

**(703) 305-7687**

[Official communications; including After Final  
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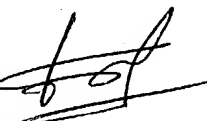
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Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 7<sup>th</sup> floor receptionist.

Igor Borissov

Patent Examiner

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